

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Telephone Number Portability

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CC Docket No. 95-116
RM 8535

BELLSOUTH REPLY COMMENTS

BellSouth Corporation and BellSouth Telecommunications Inc. on behalf of its affiliated companies ("BellSouth"), hereby file these reply comments in response to the Commission's *Third Report and Order* in the above referenced docket.¹

In its Comments BellSouth provided the Commission proposed allocation methodologies to apply to joint costs and described all identified direct costs it has incurred to provide local number portability ("LNP"). Pursuant to the *Third Report and Order* all of the direct costs listed and the allocated portion of joint direct costs are recoverable through an end-user charge.

BellSouth, however, incorrectly listed one cost as direct and fully recoverable when only a portion of the cost is associated with LNP. In Section III.B.1.b).(4) BellSouth described switch software upgrades for a 1AESS² switch as required solely for the purpose of providing LNP services. Upon further review, BellSouth has learned that the software upgrades for this type of switch will also be needed for the introduction of new toll free codes. The upgrades for this type of switch, however, were advanced in order to accommodate the provision of LNP services.

¹ In the Matter of Telephone Number Portability, CC Docket No. 95-116, *Third Report and Order*, FCC 98-82 (rel. May 12, 1998) ("*Third Report and Order*").

² The upgrades for the 4ESS switches, also listed in the referenced section, are for the sole purpose of providing LNP. Accordingly, the entire cost of the upgrades for this type of switch is fully recoverable.

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Accordingly, BellSouth proposes to treat the cost of money for advancing the upgrades as direct costs. It proposes to allocate no other portion of the upgrade costs to LNP services.

Most of the large local exchange carriers (“LEC”) filed comments providing the Commission with information regarding recovery of LNP costs. Only one entity, AT&T, filed comments suggesting limitations to the costs that LECs may recover for the implementation of LNP. AT&T’s comments, however, are misplaced and add nothing of value to resolving the questions the Commission posed in the *Third Report and Order*. Indeed, as the discussion below makes clear, the AT&T comments are irrelevant to the proceeding.

AT&T accuses the LNP query services tariffs filed by LECs of being “woefully inadequate,” and states that “[i]n the instant proceeding, it is crucial that the ILECs be required to come forward with more than just conclusory assertions that certain costs should be allocated to LNP.” Additionally, AT&T claims that “ILECs must provide detailed information about the joint costs they contend should be allocated to LNP” This is clearly not the purpose of this proceeding. The *Third Report and Order* set the standard that LECs must use to define recoverable costs associated with LNP. Recognizing that some costs incurred for the purpose of providing LNP will also benefit other services provided by the LECs, the Commission concluded that only a portion of these costs should be allocated to LNP for recovery. The Commission then requested comments “proposing ways to apportion the different types of joint costs.” The Commission contended that these proposed allocation methods would be beneficial in “facilitat[ing] the determination of the portion of joint costs carriers shall treat as carrier-specific costs directly related to providing number portability, and to facilitate evaluation of the cost

support that carriers will file in their federal tariffs.” Accordingly, this proceeding is not intended to require the disclosure of detailed information about joint costs.³

AT&T also sets forth in its comments a series of questions and tests that it claims must be administered in order to determine whether LNP costs may be recovered by a LEC. This is nothing more than a blatant attempt by AT&T to amend the *Third Report and Order* without following proper administrative procedures. The *Third Report and Order* identified the LNP costs that a LEC may recover under both the end-user charge and the query service charge. AT&T is attempting to add to the *Third Report and Order* rules and procedures that were not prescribed by the Commission. The proper vehicle for such an attempt would have been a Petition for Reconsideration (“PFR”) to the *Third Report and Order*. Because AT&T did not file a PFR in the time allotted for such a procedure, it is statutorily barred from making this kind of request in its comments in this collateral proceeding.⁴ Accordingly, the Commission must deny any request of AT&T to modify the rules established in the *Third Report and Order* regarding the determination of the types of LNP related costs that can be recovered through either the end-user charge or the query charge.

Finally, AT&T argues against the recovery of general overhead in the end user charge or the query service charge. Once again, AT&T’s comments do not belong in this proceeding. AT&T’s comments are directed toward the tariffs filed by LECs for their query services. Such questions are properly resolved within a tariff investigation wherein all relevant information is before the Commission. Further, many parties properly filed petitions for reconsideration of the

³ BellSouth, like some other LECs, filed information regarding all of the LNP related costs that it is entitled to recover from the end-user charge. This additional information was not filed to expand the proceeding, as AT&T has attempted to do, but was filed to help the Commission “facilitate the costs support [BellSouth] will file in [its] federal tariff[].”

⁴ 47 U.S.C. § 405. The Commission does not have the authority to waive its statutory obligation.

Third Report and Order in which they raised issues related to the amount and type of overhead associated with LNP that a LEC may recover. Any comments directed toward such issues should be made in the proceeding where those issues have been properly framed. Accordingly, in issuing any Order related to these proceedings, the Commission should ignore AT&T's comments on overhead.

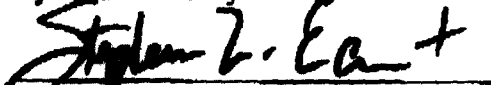
Conclusion

The Commission established this proceeding for a narrow purpose – to seek comments on methods to be used to allocate joint costs. AT&T seeks to expand this proceeding well beyond this purpose. Moreover, AT&T attempts to modify rules established by the Commission in the *Third Report and Order* without proper notice. The Commission has rules and procedures, which must be followed to propose such changes. Because AT&T failed to comply with these rules, it is barred from attempting to propose such changes in this, or any other, on-going proceeding. Consequently, the comments provided by AT&T are completely irrelevant to any Order the Commission may issue in this proceeding.

Respectfully submitted,

BELLSOUTH CORPORATION AND
BELLSOUTH TELECOMMUNICATIONS, INC.

By their Attorneys


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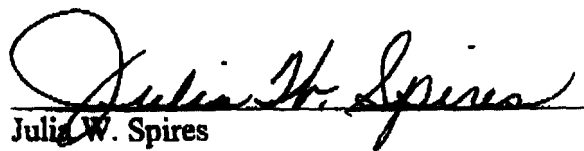
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Date: September 16, 1998

CERTIFICATE OF SERVICE

I hereby certify that I have this 16th day of September 1998, serviced all parties to this action with the foregoing **REPLY COMMENTS**, reference CC Docket No. 95-116, RM 8535, by hand service or by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties as set forth on the attached service list.


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